

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

IN RE: KENDALL DWAYNE HOWELL,
DONNA ANTHONY HOWELL,
Debtors,

FIRST NATIONAL BANK,

Case Number: 15-61028

Movant/Plaintiff,

Chapter 13

v.

KENDALL DWAYNE HOWELL,
DONNA ANTHONY HOWELL,

and

HERBERT L. BESKIN, TRUSTEE

Respondents/Defendants.

MOTION FOR RELIEF FROM STAY

TO the Honorable Judges of the aforesaid Court:

For its Motion for Relief from Stay, First National Bank, Plaintiff, by counsel, states as follows:

1. This Court has jurisdiction over the matters herein alleged pursuant to 28 U. S. C., Section 1334. This matter constitutes a core proceeding within the meaning of 28 U.S.C. Section 157 and is a contested matter under rules 4001 and 9014 of the Federal Rules of Bankruptcy Procedure.

2. The Debtors herein own and interest in the following real estate, to-wit: 2431 Smith Mountain Lake Parkway, Huddleston, Virginia 24104.

3. Plaintiff, First National Bank, is a secured creditor of Debtor, being secured by a Note and Deed of Trust on the above-property duly recorded in the Clerk's Office of the Circuit Court of Bedford County, Virginia.

4. On or about May 29, 2015, Debtors filed a petition in for relief under 11 U.S.C., Chapter 13 and the Debtors have filed a Chapter 13 Plan.

5. Under the terms of the plan, Debtors were to make post-petition payments directly to Plaintiff on the real estate loan.

6. Debtors are in default in the making of the post-petition payments due Plaintiff and the loan is presently three months delinquent. Total arrearages are in excess of \$1,671.66, with a payoff of approximately \$195,818.75 on said deeds of trust and note.

7. Plaintiff lacks adequate protection.

8. The Debtor is in default of their own plan.

9. For the above and foregoing reasons, Plaintiff asserts that cause exists sufficient to waive the requirement for Bankruptcy Rule 4001 (a)(3), therefore allowing the Order granting the relief sought to be effective upon its entry.

10. Attached hereto are copies of the deeds of trust, copies of notes and a summary of account.

WHEREFORE, Plaintiff moves the Court for relief from the automatic stay as to the above-described property pursuant to 11 U. S.C. 362 so that it may proceed under state law.

FIRST NATIONAL BANK

By: /s/ Michael P. Lovell
Of Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on May 5, 2016 I mailed or electronically served a true copy of the foregoing Motion for Relief from Stay to the following: 2431 Smith Mountain Lake Parkway, Huddleston, VA 24104; Herbert L. Beskin, Trustee, and T. Henry Clarke, IV, Counsel to Debtors.

/s/ Michael P. Lovell
Michael P. Lovell, Esq.

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